

Remarks

This application has been carefully reviewed in light of the Office Action mailed June 11, 2010 (the "Office Action"). At the time of the Office Action, Claims 41-80 were pending in the application. Independent claims 41, 71 and 80 have been amended, as well as dependent claims 42 and 70, in the present amendment. Claims 43 and 49 have been cancelled and new claims 81-84 have been added.

Information Disclosure Statement

Applicant will submit a supplemental Information Disclosure Statement to address the objections to the non patent literature documents cited in Applicant's March 23, 2010 IDS.

Drawings Objections

On page 2 of the Office Action, an objection was made to the drawings submitted on January 20, 2010. Applicant believes the objection is with respect to Figure 9 which is a side elevation of a batten according to another embodiment of the invention showing a series of transverse channels formed in an outer surface of the batten. Applicant respectfully submits that this alternative embodiment is supported by the specification, e.g., on page 3, lines 26-28 (*"Alternatively, the channel may be formed in an outer surface of the batten adapted for face-to-face engagement with an adjacent inner surface of the overlying cladding sheet. In a further alternative, the channel may extend through the batten"*). Applicant believes that the drawings are in compliance and respectfully requests withdrawal of the objection.

On pages 3-4 of the Office Action, an objection was made with respect to the drawings with respect to a transverse channel being formed "in an outer surface of the batten adapted for face-to-face engagement with an adjacent inner surface of the overlying cladding sheet" as recited in Applicant's claim 49, and a "batten and cladding sub-assembly" as recited in Applicant's claim 78. With respect to claim 49, this is supported by the specification (e.g., at page 4, lines 8-9) (*"Alternatively, however, the transverse channel may be formed in the outer surface of, or extend through, the batten"*). With respect to claim 78, this is also supported by the specification (e.g., at page 10, lines 5-7) (*"In a variation on this construction technique, the battens may be pre-attached to the cladding sheets, and the resultant batten and cladding sub-*

assemblies subsequently secured to the building frame”) and is illustrated in Figures 5 and 6. Applicant believes that the drawings are in compliance and respectfully requests withdrawal of the objection.

Objections to claim 70

The text of Claim 70 was objected to in the Office Action for informalities along with corresponding portions of the specification for failing to provide proper antecedent basis. Claim 70 has been amended herein and is believed to now be in compliance. Applicant respectfully requests withdrawal of the objections.

Section 112, second paragraph rejection

In the Office Action, claim 70 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traversed the rejection. Applicant submits that claim 70 as amended is believed to be in compliance and it is respectfully requested that the rejection be withdrawn.

Section 102 rejections

Zambelli

In the Office Action, claims 41-58 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 6,729,093 to Zambelli et al (“Zambelli”). Applicant respectfully traverses the rejection.

Zambelli is directed to a prefabricated concrete panel, the panel made up of 2 internal sheets which are embedded in concrete. Zambelli’s concrete panel contains an inner air chamber which serves to increase the thermal and/or acoustic insulation of the panel. Zambelli expressly states that there is no cavity between the inner side of the concrete panel and internal space of the building a “cavity” to remove condensation, given that the air circulating inside the concrete panel reduces moisture and avoids condensation on the side of the panel.

The Office Action seeks to equate the internal portions of Zambelli’s concrete panel with Applicant’s novel batten. Applicant’s claim 41 as amended recites, among other limitations, a batten having an “outer surface containing grooves having a defined depth below the outer surface of the batten to facilitate passage of water through the grooves wherein a portion of the outer surface of the batten is in contact with the inner surface of the cladding sheet”. The portion of

Zambelli relied upon by the Examiner as constituting a batten is "Sheet 2" (Fig. 2). Sheet 2 contains an air chamber 4 divided into a plurality of recesses 5, respectively formed by cups 2a. Protruding ribs 10 are formed on the back of the cups 2a in order to support reinforcement bars 11 embedded in the concrete body 13 of the panel. In between the ribs 10 are grooves 9, which serve to "mold" the concrete to provide mechanical strength of the panel (see col. 4, lines 53-55). Applicant respectfully submits that the grooves 9 of the inner portion of Zambelli's concrete panel are filled with concrete and do not facilitate passage of water through the grooves as recited in Applicant's claims. Further, as this portion of Sheet 2 is embedded in concrete, it is not in contact with any surface within which the completed concrete panel may be adhered to.

As such, Applicant respectfully submits that Applicant's claims are not anticipated by Zambelli, and respectfully request that the rejections under 102 be withdrawn.

Clayton

In the Office Action, claims 71, 72, 74-76 and 79-80 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. Application Publication No. 2002/0108333 to Clayton ("Clayton"). Applicant respectfully traverses the rejection.

Clayton is directed to a method of wall or roof construction that allows water to drain from inside a wall or under a roof instead of being absorbed into the wood. Clayton's construction is specifically drawn to removing water – not from within a wall cavity, but rather, on the outside of the structure – between the "house wrap" layer and the outer stucco layer (see Figure 2). In the preferred embodiment, water runs out of the "drainage layer" (reference 20 in Figure 2) – which consists of used tire pieces – and then onto a lower protruding baffle (21), and finally, out through weep holes 22. See Figure 2. Figure 6 of Clayton is drawn to an alternative embodiment when the drainage layer 20 is replaced with hydrophobic layer comprising an insulating board having a notched face 60 and a notched bottom edge 61. See Fig. 6, and paragraph 18.

Applicant respectfully submits that Clayton does not disclose or suggest each and every one of the limitations of claims 71, 72, 74-76 and 79-80, as required for anticipation under Section 102. For the foregoing reasons, Applicant respectfully requests that the rejections under Section 102 based on Clayton be withdrawn.

Section 103 Rejections based on Zambelli

In the Office Action, claims 59-69, 73, 77, and 78 were rejected under 35 U.S.C. 103(a) as being unpatentable over Zambelli in view of other references as indicated on pages 13-19 of the Office Action. Applicant respectfully traverses the rejections. Applicant refers to its comments above with respect to the principal reference Zambelli and submits that claims 59-69, 73, 77, and 78 (which are dependent of independent claim 41) are novel and non-obvious over Zambelli, alone or in combination with the other cited references. Applicant respectfully requests that these rejections be withdrawn.

Conclusion

Applicant respectfully requests reconsideration of the application in view of the foregoing amendment and remarks. Applicant submits that that application is in condition for allowance and requests entry of the amendments and allowance of all pending claims. If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact the undersigned at 214-999-4487 at the Examiner's convenience. Although no fees are believed due other than the extension of time fee, the Commissioner is hereby authorized to charge this fee and any and all other fees necessitated by this response or credit any overpayments to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP.

Dated: December 13, 2010

Respectfully submitted,

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